

OHIO

SENATE

JOURNAL

TUESDAY, APRIL 29, 2008

ONE HUNDRED SIXTY-SIXTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 29, 2008, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

**REPORTS OF REFERENCE AND BILLS FOR SECOND
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

Am. H. B. No. 312-Representative Bacon.

Cosponsors: Representatives Evans, Setzer, Goodwin, Lundy, Combs, Flowers, Harwood, Batchelder, Domenick, Boyd, Latta, Fende, Schindel, Okey, Williams, B., Carmichael, Ujvagi, Stebelton, Core, Collier, Dyer, Gardner, Gibbs, Goyal, Hughes, Luckie, Oelslager, Patton, Schlichter, Sears, Uecker, Wagner, White, Williams, S., Zehringer.

To amend section 4301.99 of the Revised Code to permit the suspension for up to 180 days of the driver's license of any person who buys for or furnishes to an underage person beer or intoxicating liquor.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 323-Senator Niehaus.

Cosponsors: Senators Wilson, Harris, Carey, Schuler, Padgett, Seitz, Spada, Mumper.

To amend sections 1561.011, 1561.16, 1561.17, 1561.23, 1561.25, 1561.26, 1565.15, and 4131.03, and to enact sections 1561.24, 1561.261, 1567.64, and 1567.681 of the Revised Code to revise certain coal mine safety requirements, to create the Mine Safety Fund to be used for specified mine safety purposes, to allow the Administrator of the Bureau of Workers' Compensation to transfer a portion of the investment earnings of the Coal-Workers Pneumoconiosis Fund to the Mine Safety Fund, and to declare an emergency.

To the Committee on Environment and Natural Resources.

S. B. No. 324-Senator Stivers.

Cosponsors: Senators Miller, R., Mason, Miller, D., Jacobson.

To enact sections 4112.31, 4112.32, and 4112.33 of the Revised Code to establish a New African Immigrants Commission to advocate for the development and implementation of policies and programs to address the needs of the State's sub-Saharan African population.

To the Committee on Finance and Financial Institutions.

YES - 5: J. KIRK SCHURING, SHIRLEY A. SMITH, RAY MILLER, BILL HARRIS, JEFF JACOBSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bills were considered a second time and referred to committee as recommended.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Schuring submitted the following report:

The Standing Committee on Rules to which were referred the appointments by the Governor of:

Mary Kay Eastman, Democrat, from Athens, Athens County, Ohio, as a Member of the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board for a term beginning February 26, 2008 and ending at the close of business August 27, 2010, replacing Tom Caldwell, whose term expired.

Horace W. Karr, Republican, from Pomeroy, Meigs County, Ohio, as a Member of the Wildlife Council for a new term beginning March 12, 2008 and ending at the close of business January 31, 2012.

James B. Krimmel, Republican, from Twinsburg, Summit County, Ohio, as a Member of the Environmental Education Council for a new term beginning March 5, 2008 and ending at the close of business October 1, 2009.

Michael A. Martin, Democrat, from Mansfield, Richland County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a term beginning March 4, 2008 and ending at the close of business January 1, 2011, replacing Richard Finney, whose term expired.

Roger Lee Osborne, Republican, from Fleming, Washington County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board

for a term beginning January 10, 2008 and ending at the close of business January 10, 2010.

Richard D. Setty, from Youngstown, Mahoning County, Ohio, as a Member of the State Board of Sanitarian Registration for a new term beginning October 17, 2007 and ending at the close of business August 15, 2010.

Chandra R. Shah, Independent, from Cincinnati, Hamilton County, Ohio, as a Member of the State Board of Registration for Professional Engineers and Surveyors for a new term beginning October 17, 2007 and ending at the close of business September 24, 2012.

Jeffery Skapin, Democrat, from Stow, Summit County, Ohio, as a Member of the State Board of Examiners of Architects for a term beginning December 20, 2007 and ending at the close of business October 2, 2012, replacing Leon Humphries, whose term expired.

Michael A. Sliva, Democrat, from Cadiz, Harrison County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board for a term beginning January 10, 2008 and ending at the close of business January 10, 2012.

Ann M. Spicer, Democrat, from Columbus, Franklin County, Ohio, as a Member of the State Fire Commission for a term beginning March 4, 2008 and ending at the close of business October 31, 2012, replacing Gwen McFarlin, whose term expired.

G. Duane Welsh, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Board of Building Appeals for a term beginning February 29, 2008 and ending at the close of business October 13, 2008, replacing D. Michael Crites, who resigned.

Sandra L. Wise, Democrat, from Fremont, Sandusky County, Ohio, as a Member of the Tobacco use Prevention and Control Foundation for a term beginning February 20, 2008 and ending at the close of business June 3, 2011, replacing Rebecca Zuccarelli, whose term expired.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 11: BILL HARRIS, JEFF JACOBSON, TOM NIEHAUS, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, CAPRI S. CAFARO, LANCE T. MASON, SHIRLEY A. SMITH, RAY MILLER.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the Senate advised and consented to said appointments.

HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

Sub. S. B. No. 163-Senator Niehaus.

Cosponsors: Senators Cates, Kearney, Austria, Clancy, Schuring, Padgett, Sawyer, Schaffer, Carey, Coughlin, Faber, Fedor, Gardner, Grendell, Harris, Mason, Miller, D., Roberts, Schuler, Spada, Stivers, Mumper, Miller, R., Jacobson. Representatives Uecker, Bolon, Boyd, Celeste, Chandler, Combs, Domenick, Dyer, Evans, Flowers, Heard, Jones, Letson, Mallory, Setzer, Wagner, White.

To amend sections 109.57, 109.572, 109.5721, 109.60, 2151.413, 2151.414, 2151.417, 2151.419, 2151.421, 2151.424, 2151.86, 3107.033, 3107.034, 3107.14, 5101.13, 5101.132, 5101.134, 5103.03, 5103.0319, 5103.0326, 5103.16, 5103.18, 5104.011, 5104.012, 5104.013, 5104.09, and 5104.30 and to enact sections 1901.43, 1907.181, 2301.10, 3107.066, 5101.32, 5103.0328, and 5104.022 of the Revised Code and to amend Section 309.50.60 of Am. Sub. H.B. 119 of the 127th General Assembly to improve foster caregiver background checks, clarify when a court must order a person to be fingerprinted, modify the retained applicant fingerprint database, remove the requirement that the Ohio Department of Mental Health conduct a study of children placed using the child placement level of care tool, and make other changes in the law regarding approval of out-of-home care workers, adoptive parents, foster caregivers, and child day-cares, were taken up.

The question being, "Shall the Senate concur in the House amendments to **Sub. S. B. No. 163**?"

The yeas and nays were taken and resulted - yeas 30, nays 2, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
---------	---------	----------	--------

Carey	Cates	Coughlin	Faber
Fedor	Goodman	Kearney	Mason
Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Seitz
Smith	Spada	Stivers	Wagoner
Wilson			Harris-30.

Senators Grendell and Jacobson voted in the negative-2.

So the Senate concurred in the amendments of the House of Representatives.

BILLS FOR THIRD CONSIDERATION

Am. H. B. No. 55-Representative McGregor, J.

Cosponsors: Representatives Evans, Hughes, Latta, Setzer, Skindell, Dodd, Book, Brown, Domenick, Schneider, Batchelder, Collier, Dolan, Gibbs, Jones, Stebelton, Stewart, D. Senators Cates, Seitz, Wagoner, Fedor, Roberts.

To enact section 5.2238 of the Revised Code to designate April 29 of each year "Heritage and Freedom Flag of the Former Republic of Vietnam Day, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 55**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Austria, Carey, Goodman, Grendell, Harris, Mumper, Padgett, Schuler, Spada, Stivers."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Am. H. B. No. 281-Representative Schlichter.

Cosponsors: Representatives Gibbs, McGregor, J., Brown, Wagoner, Combs, Webster, Stebelton, Collier, Aslanides, Domenick, Evans, Batchelder, Book, Daniels, Flowers, Gardner, Hagan, R., Harwood, Hottinger, Patton, Setzer, Zehringer. Senators Mumper, Padgett, Carey.

To amend sections 955.12, 955.14, 955.27, 955.29, 955.32, 955.34, 955.35, 955.37, and 955.38; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 955.34 (955.351); and to repeal sections 955.31 and 955.33 of the Revised Code to provide for the uniform determination of the fair market value of certain animals killed by a dog, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 281**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Mumper moved to amend the title as follows:

Add the names: "Harris, Kearney, Morano, Schaffer, Wagoner, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. S. B. No. 220-Senator Schuring.

To amend sections 2929.01, 2929.14, and 2929.24 and to enact section 2941.1421 of the Revised Code to authorize a court to impose an additional jail or prison term on an offender convicted of any one of certain prostitution, procuring, and soliciting offenses and of a specification that the offense was committed in proximity to a school and to authorize the court to require the offender in lieu of the additional prison or jail term to wear a real-time processing, continual tracking electronic monitoring device for a period of time that the additional term could have been imposed, was considered the

third time.

The question being, "Shall the bill, **Sub. S. B. No. 220**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Schuring moved to amend the title as follows:

Add the names: "Austria, Harris, Padgett, Schaffer."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 325-Senator Kearney.

To enact section 5.2239 of the Revised Code to designate May as "Foster Care Month."

S. B. No. 326-Senator Seitz.

To amend sections 102.02, 183.021, 183.30, 183.33, and 2151.87; to enact section 3701.84; to repeal sections 183.03, 183.04, 183.05, 183.06, 183.061, 183.07, 183.08, 183.09, and 183.10 of the Revised Code; to repeal Section 3 of Am. S.B. 192 of the 127th General Assembly, to repeal Section 4 of S.B. 209 of the 127th General Assembly, and to repeal Section 205.10 of Sub. S.B. 321 of the 126th General Assembly to abolish the Tobacco Use Prevention and Control Foundation and transfer certain powers of the Foundation to the Department of Health, to make an appropriation, and to declare an emergency.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Sub. S. B. No. 186 -Senator Stivers

Cosponsors: Senators Miller, D., Miller, R., Gardner, Cafaro, Carey, Cates, Fedor, Goodman, Harris, Kearney, Mason, Morano, Mumper, Niehaus, Padgett, Roberts, Sawyer, Schuring, Seitz, Smith, Spada, Wagoner, Wilson
Representatives Adams, Barrett, DeBose, Batchelder, Aslanides, Beatty, Blessing, Bolon, Book, Boyd, Brady, Brown, Budish, Carmichael, Celeste, Chandler, Combs, Daniels, DeGeeter, Dodd, Dolan, Domenick, Dyer, Evans, Fende, Fessler, Flowers, Foley, Gardner, Garrison, Gerberry, Gibbs, Goodwin, Goyal, Hagan, J., Hagan, R., Harwood, Heard, Hite, Hottinger, Hughes, Jones, Letson, Luckie, Lundy, Mallory, McGregor, J., McGregor, R., Mecklenborg, Newcomb, Oelslager, Okey, Otterman, J., Patton, Peterson, Reinhard, Sayre, Schindel, Schlichter, Schneider, Setzer, Skindell, Slesnick, Stewart, D., Stewart, J., Strahorn, Sykes, Szollosi, Uecker, Ujvagi, White, Widener, Williams, B., Williams, S., Yates, Yuko, Zehringer

To amend sections 1739.05 and 1751.01 and to enact section 3923.80 of the Revised Code to prohibit insurers, public employee benefit plans, and multiple employer welfare arrangements from excluding coverage for routine patient care administered as part of a cancer clinical trial.

As a substitute bill, in which the concurrence of the Senate is requested.

Attest:

Laura P. Clemens,
Clerk.

Said amendments were laid over under the rule.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has passed the following bills in which the concurrence of the Senate is requested:

Sub. H. B. No. 318 -Representative Gibbs

Cosponsors: Representatives Aslanides, Domenick, Bacon, Batchelder, Bolon, Chandler, Combs, Daniels, DeBose, Dyer, Evans, Flowers, Garrison, Goyal, Hagan, J., Hagan, R., Harwood, Hughes, Luckie, McGregor, J., Patton, Sayre, Schindel, Schneider, Setzer, Uecker, Zehringer

To amend sections 5541.05, 5571.20, and 5735.27 of the Revised Code to

make changes relative to the provisions that govern the placing of county and township roads on nonmaintained status.

Sub. H. B. No. 499 -Representative Oelslager

Cosponsors: Representatives McGregor, J., Hughes, Combs, Barrett, Huffman, Mecklenborg, Coley, DeGeeter, Dyer, Harwood, Letson, Luckie

To amend sections 2109.01, 5801.01, 5801.02, 5801.06, 5801.10, 5803.02, 5803.03, 5804.02, 5804.11, 5804.13, 5804.14, 5804.17, 5805.01, 5805.03, 5806.01, 5806.02, 5806.03, 5806.04, 5808.13, 5808.14, 5808.16, 5810.05, 5810.11, 5810.13, and 5815.35, to enact section 5801.11, and to repeal section 2109.022 of the Revised Code to modify the Ohio Trust Code and the Fiduciary Law.

Attest:

Laura P. Clemens,
Clerk.

Said bills were considered the first time.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bill:

Am. Sub. S. B. No. 221 -Senator Schuler - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following concurrent resolution:

S. C. R. No. 18 -Senator Padgett - et al.

Attest: Laura P. Clemens,
Clerk.

The President signed said concurrent resolution.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bills:

Sub. H. B. No. 46 -Representatives Stewart, J., DeGeeter - et al.

Sub. H. B. No. 332 -Representative Wagoner - et al.

Am. H. B. No. 352 -Representative Patton - et al.

Attest: Laura P. Clemens,
Clerk.

The President signed said bills.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3718.03 (A) (2) (B) of the Ohio Revised Code, the President of the Senate appoints the following public member to serve on the Sewage Treatment System Technical Advisory Committee:

Scott Hetrick (manufacturer – term beginning immediately, ending 1/1/11)
Norweco, Inc. (replacing Mike Price who resigned)
Norwalk, Ohio 44857-2296

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolution were offered:

S. R. No. 208-Senator Harris.

Cosponsors: Senators Goodman, Stivers.

Recognizing the Governor's Twenty-eighth Annual Holocaust Commemoration, April 30, 2008.

S. R. No. 209-Senator Schuring.

Cosponsors: Senators Seitz, Kearney, Coughlin, Goodman, Roberts, Mason, Padgett, Schuler, Spada, Wagoner.

Recognizing Historic Preservation Month in Ohio, May 2008.

S. R. No. 210-Senator Buehrer.

Honoring the Ottawa-Glandorf High School boys basketball team on winning the 2008 Division III State Championship.

S. R. No. 211-Senators Buehrer, Faber.

Honoring the New Knoxville High School boys basketball team on winning the 2008 Division IV State Championship.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were adopted.

On the motion of Senator Niehaus, the Senate adjourned until Wednesday, April 30, 2008 at 1:30 p.m.

Attest:

VINCENT L. KEERAN,
Clerk.